

CONGRESSIONAL RECORD SUMMARY

Friday, November 15, 2002

HOUSE

The House was not in session today. Its next meeting will be held on Tuesday, November 19, 2002, at 12:00 p.m.

Remarks:

Homeland Security Act Of 2002.

Udall

Page E 2058

Tauzin

Pages E 2078-9

Arney

Pages E 2079-80

Correction On **H.R. 4689** (Fairness in Sentencing Act of 2002).

Frank

Page E 2061

"You Are A Suspect."

Paul

Pages E 2066-7

Committee Report To H.R. 4689, "The Fairness In Sentencing Act."

"...Judge Rosenbaum serves as the Chief Judge of the United States District Court for the District of Minnesota. Prior to his appointment to the bench by President Reagan, he served as the United States Attorney for the District of Minnesota. Judge Rosenbaum did not seek to testify before Congress. Rather, he was invited to participate in the May 14 hearing by Chairman Sensenbrenner at my request. At the hearing, Judge Rosenbaum expressed support for an amendment to the federal sentencing guidelines that had been transmitted to Congress by a unanimous vote of the United States Sentencing Commission, and expressed opposition to H.R. 4689, a bill to block that guideline amendment. Judge Rosenbaum's position in favor of the amendment is shared by, among others, the three Republican members of the Sentencing Commission and the Judicial Conference of the United States. Moreover, Judge Rosenbaum's position is largely embodied in legislation (section 202 of S. 1874) introduced last year by Senators Jeff Sessions (R-AL) and Orrin Hatch (R-UT). [] The Committee's 22 page critique of Judge Rosenbaum's testimony is highly repetitious, but contains four major charges: [] By voting in favor of H.R. 4689, a majority of the House Judiciary Committee expressed its disagreement with the views of Judge Rosenbaum, all seven members of the Sentencing Commission, and Senators Sessions and Hatch. That is the Committee's prerogative. It is also the Committee's prerogative to rebut the arguments of any witness. However, the Committee exceeded the bounds of decency and fairness when it published a 22 page diatribe against a distinguished, respected federal judge and former United States Attorney..."

Scott

Page E 2070-1

Correction To Dissenting Views To Committee Report To **H.R. 4689** (Fairness in Sentencing Act of 2002).

Scott

Page E 2079

Congressional Program Ahead. Week Of November 18 Through November 23, 2002:

Committee on Government Reform, 11/19/02 @ 10:00 a.m. Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations, oversight hearing on "Computer Security in the Federal Government: How Do the Agencies Rate?" 2154 Rayburn.

Committee on Small Business, 11/21/02 @ 10:30 a.m. Hearing on Federal Prison Industries Unfair Competition with Small Businesses: Potential Interim Administrative Solutions. 2360 Rayburn.

Page D 1161

SENATE

Measure Introduced:

S. 3170. *A bill to authorize Chief Judge Richard T. Haik, of the western district of Louisiana, to participate in the retirement program provided for judicial officials under section 376 of title 28, United States Code; to the Committee on the Judiciary.*

Breaux

Page S 11214

Measures Reported:

S. 1284, to prohibit employment discrimination on the basis of sexual orientation, with an amendment in the nature of a substitute. (Senate Report No. 107-341)

Report to accompany **S. 3054**, to provide for full voting representation in Congress for the citizens of the District of Columbia. (Senate Report No. 107-343)

Pages S 11214, D 1159

Measures Passed:

PAYGO Balances: *Senate passed H.R. 5708, to reduce preexisting PAYGO balances, clearing the measure for the President.*

Pages S 11223, D 1159

E-Government Act: *Senate passed H.R. 2458, to enhance the management and promotion of electronic Government services and processes by establishing a Federal Chief Information Officer within the Office of Management and Budget, and by establishing a broad framework of measures that require using Internet-based information technology to enhance citizen access to Government information and services, clearing the measure for the President.*

Pages S 11227-8, D 1159

"...Among its many provisions, the E-Government Act would: establish an Office of Electronic Government, headed by a Presidentially-appointed Administrator within the Office of Management and Budget; authorize \$345 million over four years for an E-Government Fund to support interagency e-government projects; improve upon the centralized Federal Government online portal that now exists so that it is more user friendly and establish an online directory of Federal web sites, organized by subject matter; require Federal courts to post opinions and other information online, and regulatory agencies to conduct rule-making over the Internet; improve recruitment and training of information technology professionals in Federal agencies; and encourage electronic interoperability so that different agencies can communicate with one another more efficiently..." (Lieberman, page S 11228)

H.R. 5005. Homeland Security Act:

Senate continued consideration of H.R. 5005, to establish the Department of Homeland Security, taking action on the following amendments proposed thereto:

Pages S 11169-98, D 1159

"... In the Senate bill, we had a provision where the Federal Government indemnified those manufacturers that produced items to be used in the war on terrorism whereby the taxpayer would pay liability that arose from it. I was never much for that provision, but I was desperately trying to get the votes to prevail, and so I took that provision. The House had a provision that limited liability, similar to what we did in World War II and what we have done in most major conflicts. When you produce an item for defense purposes, there is a limited liability. It seemed to me that, rather than the taxpayer bearing the burden, forcing these cases into Federal court and limiting liability was a preferable choice. That is where the negotiation came from. This was not a provision out of the clear blue sky. We had a provision, they had a provision, and we took less liability protection than they had. This is a good provision of the bill..." (Gramm, page S 11169)

H.R. 5005. Homeland Security Act (Cont'd.):

"...The bill extends the Federal Tort Claims Act-- the FTCA--protection to any person, such as a doctor, or

a pediatrician, or a nurse, or somebody who is qualified to be giving that inoculation, lifesaving inoculation, in your arm. It provides them a protection of the Federal Tort Claims Act. What is important there--people say if that is the case, you cannot sue. Well, that is simply not true. It basically says that the Federal Government is going to be on your side and will defend you in any lawsuit and the Federal Government will pay the damages. It does not deny adequate, just, fair compensation if there is a side effect, but what it does do is you are going to have somebody behind you; namely, the Federal Government, to pay you damages. It does say you go to Federal court. People say Federal courts cannot do this. In truth, we all know Federal courts can do that. It is important to point out that in Federal court, the rules that are actually used are going to be applicable to that State or according to State law..."
(Frist, page S 11176)

Pending:

Thompson (for Gramm) Amendment No. 4901, in the nature of a substitute.

Pages S 11169-98, D 1159

Daschle (for Lieberman) Amendment No. 4911 (to Amendment No. 4901), to provide that certain provisions of the Act shall not take effect.

Pages S 11169-98, D 1159

Daschle (for Lieberman) Amendment No. 4953 (to Amendment No. 4911), of a perfecting nature.

Pages S 11170-98, D 1159

During the consideration of this measure today, Senate also took the following actions:

By 65 yeas to 29 nays (Vote No. 244), three-fifths of those Senators duly chosen and sworn, having voted in the affirmative, ***Senate agreed to the motion to close further debate on Thompson (for Gramm) Amendment No. 4901***, listed above.

Pages S 11169, D 1159

The Chair sustained the point of order that ***Lieberman/McCain Amendment No. 4902*** (to Amendment No. 4901), to establish within the legislative branch the National Commission on Terrorist Attacks Upon the United States, was not germane, ***and the amendment thus fell.***

Pages S 11169, D 1159-60

The following ***amendment No. 4951 fell when Lieberman/McCain Amendment No. 4902***, listed above, was ruled not germane: ***Dodd Amendment No. 4951*** (to Amendment No. 4902), to provide for workforce enhancement grants to fire departments.

Pages S 11169, D 1160

A unanimous-consent agreement was reached providing for further consideration of the bill on Monday, November 18, 2002, upon disposition of executive calendar number 1178; that the 30 hours under cloture conclude at 10:30 a.m., on Tuesday, November 19, 2002; that at 10:30 a.m., the Senate will vote on Daschle (for Lieberman) Amendment No. 4953 (to Amendment No. 4911), listed above; that upon disposition of that amendment, the Senate then vote on Daschle (for Lieberman) Amendment No. 4911 (to Amendment No. 4901), listed above, as amended, if amended; that upon the disposition of that amendment, the Senate then vote on, or in relation to, the Thompson (for Gramm) Amendment No. 4901, listed above, as amended, if amended; that upon the disposition of that amendment, the Senate then vote on the motion to invoke cloture on the bill (H.R. 5005), provided further that no points of order be waived by this agreement.

Pages S 11219, D 1160

H.J. Res. 124. Continuing Resolution--Agreement:

A unanimous-consent agreement was reached providing that the Majority Leader, with the concurrence of the Republican Leader, may at anytime proceed to the consideration of Calendar No. 762, H.J. Res. 124, the Continuing Resolution.

Authority for Committees to File--Agreement:

A unanimous-consent agreement was reached providing that following the sine die adjournment of the 107th Congress; that the Select Committee on Intelligence be authorized to file, and the Secretary of the Senate be authorized to receive, a report in either classified or unclassified form, or both, solely on the Committee's investigation into the Intelligence Community's activities before and after the September 11, 2001, terrorists attacks on the United States, on one of the following days: Friday, December 20, 2002 or Thursday, January 2, 2003 from 10 a.m. to 12 noon.

Pages S 11228, D 1160

H.R. 4628. Intelligence Authorization Act Conference Report:

*Senate agreed to the conference report on H.R. 4628, to authorize appropriations for fiscal year 2003 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, **clearing the measure for the President.***

Pages S 11198, D 1160

H.R. 3210. Terrorism Risk Protection Act Conference Report--Agreement:

A unanimous consent agreement was reached providing that immediately upon the passage of H.R. 5005, Homeland Security Act, the Senate proceed to the conference report on H.R. 3210, Terrorism Risk Protection Act; that the Senate then vote immediately on cloture on the conference report; that if cloture is invoked the Senate then immediately, without any intervening action or debate, vote on passage of the conference report; and that if cloture is not invoked the conference report continue to be debatable.

Pages S 11219, D 1160

Nomination--Agreement:

A unanimous-consent-time agreement was reached providing for consideration of Dennis W. Shedd, of South Carolina, to be United States Circuit Judge for the Fourth Circuit, at 12 noon, on Monday, November 18, 2002; that at the conclusion, or yielding back of time, but not before 5:15 p.m., Senate will vote on the motion to invoke cloture on the nomination; that if cloture is invoked the Senate then vote immediately on confirmation of the nomination; that if cloture is not invoked the nomination be returned to the executive calendar, and the Senate then return to legislative session. Further, that the granting of this consent fulfill the cloture filing requirement under Rule XXII.

Pages S 11219, D 1160

Nominations Confirmed:

Senate confirmed the following nominations:

Michael W. McConnell, of Utah, to be United States Circuit Judge for the Tenth Circuit.

Kevin J. O'Connor, of Connecticut, to be United States Attorney for the District of Connecticut for the term of four years.

Pages S 11216-19, S 11229, D 1160

"... Unfortunately, Professor McConnell does not stand apart from other Bush nominees for his extreme ideology. I believe he was chosen because of it. Remaking the Federal courts has been a long-term goal of the right- wing base of the Republican party. They have pursued this goal with dogged determination and persistence for more than two decades, and they are succeeding. More and more restrictions on a woman's right to choose are being upheld as constitutional by the increasingly conservative Federal courts, while portions of anti-discrimination law and Violence Against Women Act--a law that Senator Biden wrote and that I was proud to sponsor when I was in the House--are struck down. This is not the right direction for the federal courts..." (Boxer, page S 11219)

Congressional Program Ahead. Week Of November 18 Through November 23, 2002:

On Monday, at 12 noon, Senate will consider the nomination of Dennis W. Shedd, of South Carolina, to be United States Circuit Judge for the Fourth Circuit, with a vote on the motion to invoke cloture; and if cloture is invoked, Senate will then vote on confirmation of the nomination. Also, Senate will resume consideration of H.R. 5005, Homeland Security Act.

On Tuesday, Senate will continue consideration of H.R. 5005, Homeland Security Act, with votes to occur on certain pending amendments, followed by a vote on the motion to invoke cloture on the bill.

During the balance of the week, Senate expects to consider any other cleared legislative and executive business, including conference reports, when available.

Committee on the Judiciary: 11/20/02 @ 10:00 a.m. To hold hearings to examine an assessment of the tools needed to fight the financing of terrorism. SD-226.

Page D 1161

Remarks:

The Protect Act.

"... I want to commend Senator Hatch for working with me to include many other important provisions in the Hatch-Leahy bill that we developed together and are not as controversial. These include: A tough new private right of action for victims of child pornography with punitive damages; a victims' shield law to keep child victim's identity out of court and prevent them from suffering a second time in the criminal process; a new notice provision designed to stop 'surprise defenses' sentencing enhancements for recidivists and a directive to correct the disparity in the current sentencing guidelines that provides a lighter sentence for offenders who cross state lines to actually molest a child than for offenders who possess child pornography that has crossed State lines. These provisions are important, practical tools to put child pornographers out of business for good and in jail where they belong..."

Leahy

Pages S 11199-204

2001 Federal Bureau Of Investigation Uniform Crime Report.

Levin

Page S 11206

Remarks (Cont'd.):

The Confirmation Of 98 Judicial Nominees.

"... If this Senate had a "lousy" record on judicial confirmations, then the Republican leadership, which controlled the pace on confirmations from 1995 through the first part of 2001, must have been far, far worse than "lousy". Under Republican control judicial vacancies on the Courts of Appeals more than doubled, from 16 to 33, and overall vacancies rose from 65 to 110. We have heard no criticism from the White House of that period, in which Senate Republicans blocked President Clinton's nominees. We have

heard no apologies from the Republican leadership that engineered those efforts. Just last night, in one night, the Democratic-led Senate confirmed more judges, 18, including more circuit judges, than the Republican-led Senate allowed to be confirmed in the entire 1996 session more in one day than Republicans were willing to proceed on for an entire year. Seventeen of those judges were the nominations we were able to get reported from the Committee on October 8 with some significant effort and in spite of Republican efforts to divert the Committee into other matters..."

Leahy

Pages S 11206-7

Identity Theft Victims Assistance Act Of 2002.

Cantwell

Page S 11207

Next SENATE MEETING: Monday, 11:00 a.m., November 18, 2002.

Next HOUSE MEETING: Tuesday, 12:00 p.m., November 19, 2002.

OLA: S. Schwarz, A. Santos